

# EXECUTIVE DEPARTMENT

## STATE OF CALIFORNIA

### EXECUTIVE ORDER W-19-91

**WHEREAS**, California state government takes an active role in encouraging the development of new industry and supports existing in-state firms to ensure a stable employment base and future employment growth opportunities; and

**WHEREAS**, a number of in-state firms conduct export sales business with foreign entities, many of whom impose offset requirements on U.S. firms as a condition of sale; and

**WHEREAS**, offsets are defined as an obligation, related to the sale of a product to a foreign customer, to undertake a range of industrial and commercial compensation practices to benefit the foreign customer; and

**WHEREAS**, the State of California, by virtue of its purchase of foreign goods and services, has the opportunity to claim foreign purchase offset credits for assignment to companies engaged in export sales; and

**WHEREAS**, foreign purchase offset credits generated by the State can reduce offset obligations by firms, thereby providing the opportunity of keeping work and employment within the state; and

**NOW, THEREFORE, I, PETE WILSON**, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, hereby proclaim the following order effective immediately:

#### **A. PROGRAM STRUCTURE**

1. The California State Offset Program administered by the Department of Commerce (DOC) and supported by all California State purchasing agencies shall be established to obtain offset credits for foreign products and services procured by the State of California. These credits will be allocated by DOC to California companies with potential or existing offset obligations to those countries from which the State of California procures goods and services.
2. The State's purchasing agencies, led by the Department of General Services, shall request potential vendors to identify the foreign content of their goods and services. Such information shall be sought but have "no preference, no penalty" on procurement decisions.
3. DOC, working with State purchasing agencies, shall develop language to be inserted into all procurement documents which shall reserve the right of the State to claim offset credits for the value of any foreign content of the goods and services purchased and to assign these offset credits to California companies. The Department of Commerce shall also develop guidelines to establish minimum thresholds at which offset requirements will be triggered.

**PACE TWO**

4. DOC, once advised by the State purchasing agency of intended procurement involving potential foreign sourcing, will access an information data base identifying California companies having existing or potential offset obligations with the governments of potential foreign sources and/or obligations. Based on the information contained in the data base, DOC shall assign the offset credit to a California company.

**B. CALIFORNIA CONTRACTOR INFORMATION DATA BASE**

1. DOC will establish and maintain an information data base containing all relevant information necessary for the State to allocate offset credits.
2. Each participating State of California company shall be responsible to ensure the information they supply for the data base is current and correct. Contractor information to be provided will include:
  - Identification of foreign country(s) where contractor has existing or potential offset obligations.
  - The number of jobs within the company in California associated with the foreign sales that gave rise to the company's offset requirement and the percentage of such foreign sales attributable to work performed in California.
  - Country dollar value of unfulfilled existing or potential offset obligation, which can be met through State generated offset credits.
  - Date by which the obligation must be met.
  - Percentage of the original offset obligation which is remaining.
  - Requests to protect confidential or proprietary information from public release and identification of such information.

**C. STATE ALLOCATION FOR INTENDED PROCUREMENT**

The State shall assign foreign offset credits to eligible California businesses in accordance with the following:

1. An eligible company is a company with an existing or potential indirect offset obligation where contract related work is being performed in California.
2. Those eligible California businesses with existing obligations shall take precedence over California businesses with potential obligations.
3. Allocation of offset credits to contractors shall be based on criteria such as: Date by which obligation must be met, California program employment, value of the obligation, ratio of credit approvals to claims, previous State offset credits received, and other criteria as determined by the DOC with advice received from the Offset Advisory Board.

**D. FOREIGN NEGOTIATIONS**

1. It is the responsibility of the California company (the designated offset credit beneficiary) to negotiate with the foreign government as to the acceptability of the State's offset credit. M
2. The DOC will support the California firm in its effort to secure the foreign government's offset commitment, consistent with laws governing the role of states in international affairs.

**E. OFFSET CREDIT CONFIRMATION/DENIAL**

1. The California firm(s) will be responsible to report the foreign government's acceptance or denial of State generated offset credits back to DOC.
2. The DOC, in concert with the State's buying agencies, has the right to determine the appropriate course of action in response to offset credit denials by foreign governments whose suppliers are competitors for State purchase solicitations. The California firms(s) directly involved as potential beneficiaries will have the opportunity to render their opinion during this process.

**F. GOVERNOR'S OFFSET PROGRAM ADVISORY BOARD**

The Governor shall appoint the Chair and Members to the Offset Program Advisory Board to assist the DOC in implementing the California State Offset Program. Advisory Board members will include as an ex-officio member the Governor's Trade Representative, representatives of the California purchasing agencies, and the California business community engaged in foreign sales that generate offset obligations. The Board shall aid DOC in formulating policies and discussing problems related to the administration of this executive order.

IN WITNESS WHEREOF I have hereunto set my hand  
and caused the Great Seal of the State of  
California to be affixed this 15th day of  
November 1991.

Governor of California

**ATTEST:**

Secretary of State